

## SHORT FORM PRIME CONTRACT BETWEEN OWNER & CONTRACTOR

This Agreement ("Contract") is made this 11<sup>th</sup> day of March, 2019,

Between A.S.R. Electrical Corp. ("Contractor") and DAVS Partners LLC ("Owner") at 217-14 Hempstead Avenue, Queens Village NY 11429.

The work described in Section 1 below shall be performed in accordance with all plans, specifications and other Contract documents for the project known as:

217-14 Hempstead Avenue,  
Queens Village NY 11429

The name and address of the construction lender is:

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**SECTION 1. SCOPE** The Contractor agrees to furnish all labor, materials, equipment and other facilities required to complete the following work:

Complete renovation and buildout.

**SECTION 2. PRICE AND PAYMENT** The Owner agrees to pay the Contractor for the strict performance of the work, the sum of

\$ \_\_\_\_\_ ) subject to adjustments for changes in the work as may be agreed to by the Owner and the Contractor, as may be required under this Contract.

The Owner agrees to pay the Contractor in monthly progress payments for all work completed. Payments will be due and payable within thirty days of invoice. Final payment to the Contractor shall be made within forty - five (45) days after substantial completion of the Contract and submission of the final invoice to Owner.

**SECTION 3. ENTIRE AGREEMENT** This agreement represents the entire agreement between the Contractor and the Owner regarding the work described in Section 1, and supersedes any prior written or oral agreements or representations as to that work.

**SECTION 4. TIME** Time is of the essence of this agreement. The Contractor shall provide the Owner with a progress and completion schedule and shall conform to that schedule, including any changes to that schedule agreed to between the Owner and the Contractor or required by circumstances beyond Contractor's control.

**SECTION 5. DIFFERING SITE CONDITIONS.** Contractor shall promptly, and before the following conditions are disturbed, notify the Owner, in writing of any:

(1) Material that the contractor believes may be material that is hazardous waste, or a toxic pollutant or other substance, the handling of which may subject Contractor to legal liability;

(2) Subsurface or latent physical conditions at the work site differing from those indicated in the Contract; or

(3) Unknown physical conditions at the work site of any unusual nature, materially different from those ordinarily encountered and generally recognized as inherent to work of the character provided for in the Contract.

The Owner shall promptly investigate. If the Owner finds that the worksite conditions do materially differ, or involve hazardous waste or toxic pollutants, the Owner shall cause a decrease or increase in the Contractor's cost of, or the time required for, performance of the affected part of the work by issuing a change order under the procedures described in the Contract.

**SECTION 6. CHANGES IN WORK.** The work shall be subject to changes or additions, deletions or revisions by the Owner. The Contractor will be notified by receipt of written additions and/or revised drawings, specifications, exhibits or written orders.

Whenever an adjustment in the Contract price or Contract time is required because of Owner's request, differing site conditions, errors in the plans and specifications, or other circumstances beyond the control of Contractor (including lack of worksite access, weather, fires, floods, strikes, acts of God, natural disasters, or acts of third parties), the Contractor shall submit to the Owner within a reasonable time a detailed estimate, with supporting calculations, pricing and adjustments in the schedule of the change to the Contract price and the Contract time. Pricing of the adjustment shall be in general accordance with the pricing structure of this Contract. However, to the extent that such pricing is inapplicable, cost of the change or the amount of the adjustment shall be determined on the basis of the cost to the Contractor plus reasonable amounts for overhead and profit.

The Contractor shall not be obligated to perform changes in the work or additional work until the Owner has approved, in writing, the changes to the Contract price and the Contract time.

**SECTION 7. SUSPENSION OF WORK.** If any payment is not made to Contractor as required under this Contract, Contractor may suspend work until such payment is made. Contractor may also suspend work under this Contract if a dispute over payment for extra work, differing site conditions, changes by Owner or other circumstances beyond Contractor's control will cause the Contractor to suffer substantial financial hardship if Contractor is required to continue the work. Contractor may request

that Owner provide written proof of Owner's ability to pay Contractor for the work remaining to be performed by Contractor at any time prior to or during performance of this Contract. Failure of Owner to provide such proof shall be justification for Contractor's suspension of work under this Contract.

Any suspension of work under this Contract will also suspend the progress and completion dates set forth in Section 4.

**SECTION 8. INSPECTION OF THE WORK.** The Contractor shall make the work accessible at all reasonable time for inspection by the Owner. The Contractor shall inspect all material and equipment delivered to the job site by others to be used or incorporated in the Contractor's work.

**SECTION 9. SITE ACCESS AND RIGHTS OF WAY.** The Owner shall provide, no later than the date when needed by the Contractor, all necessary access to the lands upon which the Work is to be performed, including convenient access to the lands and any other lands designated in the Contract Documents for use by the Contractor. Owner shall continue to provide such access until completion of the Contract. Any failure to provide such access shall entitle the Contractor to an equitable adjustment in the Contract price and the Contract time.

**SECTION 10. REPORTS AND SURVEYS** Owner shall furnish prior to the start of work all maps, surveys and reports describing the physical characteristics, soil, geological and subsurface conditions, legal limitations, utility locations and legal descriptions that might assist the Contractor in properly evaluating the extent and character of the work required. The Owner shall provide all land surveys and baselines necessary for the Contractor to locate the principal parts of the Work and perform the Work.

**SECTION 11. PERMITS, LICENSES AND REGULATIONS.** Permits and licenses of a temporary nature necessary for the prosecution of the Work shall be obtained and paid for by the Contractor. The Owner shall assist the Contractor in obtaining such permits and licenses. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for the Owner.

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the performance of the Work. If the Contractor observes that drawings, specifications or other Contract documents are at variance with such laws, ordinances, rules and regulations, the Owner shall promptly be notified and, if necessary, an adjustment made to the Contract time or Contract price.

**SECTION 12. TERMINATION.** The Owner reserves the right to terminate the work for its convenience upon notice in writing to the Contractor. In such an event, the Contractor shall be paid its actual costs for the portion of the work performed to the date of termination, and for all of Contractor's incurred costs of termination, including



demobilizations and any termination charges by vendors and subcontractors, plus 20% of all of Contractor's actual and incurred costs for overhead and profit.

### SECTION 13 INDEMNIFICATION

- 13.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Contractor's Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, whether directly or indirectly by the Contractor, Subcontractor the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this agreement and Section 13.
- 13.2 In claims against any person or entity indemnified under Section 13 by an employee of the Contractor, Subcontractor the Subcontractor's Sub-subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 13 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor, Subcontractor or the Subcontractor's Sub-subcontractors under Workers' or Workmen's Compensation Acts or other employee benefit acts.
- 13.3 The obligations of the Contractor under this Section 13 shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawing, opinions, reports, surveys, Change Orders, designs, or specifications, or (2) the giving of or the failure to give directions or instruction by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.
- ✓ 13.4 Contractor waives all rights against Owner and Architect and their agents, officers, directors and employees for recovery of damages to the extent that these damages are covered by Commercial General Liability Umbrella liability, business auto liability or workers compensation and employer's liability maintained per insurance requirements stated above.

### SECTION 14 INSURANCE REQUIREMENTS

- 14.1 The Contractor shall purchase and maintain insurance of the following types of coverage and limits of liability:

Commercial General Liability - including	\$1,000,000 Each Occurrence
Contractual Liability	\$2,000,000 Aggregate, PER PROJECT
Workers' Compensation and Employers Liability	\$1,000,000 Each Employee
Business Automobile, including HNOA	\$1,000,000 CSL per Accident
Umbrella Liability	\$5,000,000

The owner and their agents are to be named as an additional insured on a primary and non-contributory basis to the Contractor's Commercial General Liability and Umbrella policies using appropriate ISO forms that include Broad Form Contractual Liability, Premises Operations Liability, Contractual Liability, Advertising and Personal Injury Liability and Products/Completed Operations Liability, or by using a company specific endorsement that provides equivalent protection. Subcontractor's Commercial General Liability and Umbrella policies will not have any 3<sup>rd</sup> Party Action Over Exclusions or Employee Injury Exclusions.

14.2 Coverages written on an occurrence basis shall be maintained without interruption from date of commencement of the Contractor's work until expiration of the applicable statute of limitations relating to latent defect in construction of or improvement to real property of the state in which the work is performed.

14.3 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Contractor's work. The certificates and insurance policies required by Article 2 shall contain the language shown on the sample certificate enclosed, and contain a provision that coverage afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final application for payment as required. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Contractor with reasonable promptness according to the Contractor's information and belief.

✓ 14.4 Waivers of Subrogation. The Contractor and his insurer shall waive all rights of subrogation against the Owner and any other indemnified parties.

#### 14.5.2 Builder's Risk

"All risk" Builder's Risk insurance (excluding the hazards of earthquake and flood) is purchased by Owner and such insurance provides property insurance coverage for both Contractor and subcontractors including loss or damage to Contractor's work. Such insurance shall also apply to any of Owner's property in the care, custody or control of Contractor. Owner waives all rights of recovery against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards, however caused.

**SECTION 15. WARRANTY.** The Contractor warrants to the Owner that all materials and equipment furnished under this Contract shall be new unless otherwise specified and that all work under this agreement will be performed in a good and workmanlike manner, shall be of good quality, free from faults and defects, and in conformance with Contract documents.

**SECTION 16. SPECIAL PROVISIONS.** (including unit pricing, if applicable):

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Contractors are required by law to be licensed and regulated by the Contractors State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors State License Board, P.O. Box 26000, Sacramento, California, 95826.

STATE LAW REQUIRES ANYONE WHO CONTRACTS TO DO CONSTRUCTION WORK TO BE LICENSED BY THE CONTRACTORS' STATE LICENSE BOARD IN THE LICENSE CATEGORY IN WHICH THE CONTRACTOR IS GOING TO BE WORKING - IF THE TOTAL PRICE OF THE JOB IS \$500 OR MORE (INCLUDING LABOR AND MATERIALS).

LICENSED CONTRACTORS ARE REGULATED BY LAWS DESIGNED TO PROTECT THE PUBLIC. IF YOU CONTRACT WITH SOMEONE WHO DOES NOT HAVE A LICENSE, THE CONTRACTORS' STATE LICENSE BOARD MAY BE UNABLE TO ASSIST YOU WITH A COMPLAINT. YOUR ONLY REMEDY AGAINST AN UNLICENSED CONTRACTOR MAY BE IN CIVIL COURT, AND YOU MAY BE LIABLE FOR DAMAGES ARISING OUT OF ANY INJURIES TO THE CONTRACTOR OR HIS OR HER EMPLOYEES.

YOU MAY CONTACT THE CONTRACTORS' STATE LICENSE BOARD TO FIND OUT IF THIS CONTRACTOR HAS A VALID LICENSE. THE BOARD HAS COMPLETE INFORMATION ON THE HISTORY OF LICENSED CONTRACTORS, INCLUDING ANY POSSIBLE SUSPENSIONS, REVOCATIONS, JUDGMENTS.

AND CITATIONS. THE BOARD HAS OFFICES THROUGHOUT CALIFORNIA. PLEASE CHECK THE GOVERNMENT PAGES OF THE WHITE PAGES FOR THE OFFICE NEAREST YOU OR CALL 1-800-321 CSLB FOR MORE INFORMATION.

Dated: 03/11/2019

Dated: 03/11/2019

OWNER: DAVIS Partners LLC

CONTRACTOR: A.S.K. Electrical Corp.

Vanessa Kiceman

David Freeman

By: Vanessa Kiceman  
(Name)

By: David Freeman  
(Name)

Partner  
(Title)

President  
(Title)

217-14 Hempstead Avenue

26-50 BQE West, Unit 2

Queens Village NY 11429  
(Address)

Woodside NY 11377  
(Address)

Master Electrician # 12800  
(Contractors License Number)

NOTE: This document has important legal consequences. Consultation with an attorney prior to use or modification of this document is encouraged. Some contracts may require the use of special provisions not included in this form.



**Unacceptable GL Insurance Carriers for New York Subcontractors**

(These carriers often have Limitations / Exclusions for Additional Insured, Contractual and Employee Injury beyond general ISO policy wording which lead to denials of coverage for additional Insured coverage including New York Labor Law claims. Copies of policies need to be reviewed to confirm coverage. This list is not all inclusive.)

Ace – (May Accept Must review forms)	Markel – (May Accept Must Review Forms)
Allera Excess & Surplus Insurance Company	Maxim Specialty
American European Insurance Group	Mt. Vernon Fire Insurance
American Safety	National Casualty Company
Aspen Specialty	National Fire & Marine Insurance Company
Atlantic Casualty Insurance Company	Nautilus – (May Accept Must Review Forms)
Atlantic Specialty Insurance Company	Nova Casualty Company
Burlington Insurance Company	POIC (a/k/a Preferred Contractors Insurance Co.)
Century Surety/Century Insurance	Penn America Group
Crum & Forster	RCA
Employer's Mutual Casualty Company	Rutgers Casualty Company
Endurance	Safeco
Erie Insurance Company – (May Accept must Review forms)	Scottdale
Essex Insurance Company	Sirius American Insurance Company
Evanston Insurance Company	TIG Insurance Company
Everest	Tower – (Now AmTrust – May Accept must review forms)
Farm Family	Tudor Insurance Company
Hartford – (May Accept must review forms)	Underwriters at Lloyds
	United National Group
Hudson – (May Accept Must review Forms)	United States Fire Insurance Company
Investors Insurance Company	U. S. Liability Insurance Company (USLI)
James River – (May Accept Must Review Forms)	Ulrica First Insurance Company
	Valley Forge Insurance Company
Main Street America Group	Western Heritage Insurance Company

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 Applicant's Signature & Date

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 Producer's Signature & Date

By signing, you acknowledge that you have reviewed this list and will establish procedures to avoid contractors who have their GGL policy with these carriers. If there is a question about coverage, please verify that the policy does not contain any endorsements that would exclude coverage for New York Labor Laws claims.